



INSPECTION REPORT COVER SHEET

Inspection #: <u>09141133101</u>	Name of Person Contacted: <u>Joel Kammelt</u>
Name of Business: <u>Kammelt Farms</u>	Official Position: <u>owner</u>
Street Address: <u>8795 W. Route 20</u>	Post Office Address: <u>same</u>
City/State/Zip Code: <u>Westfield, N.Y. 14787</u>	City/Village/Township: <u>§ § §</u>
Telephone Number: <u>(716) 581-0157</u>	County: <u>Chautauque</u>

Inspector's Initials	Name of Inspection Form	Form Number
<u>mw</u>	Notice of Inspection	NOI
<u>mw</u>	Pesticide Applicator/Business/Use Inspections	USE
<u>mw</u>	Worker Protection Standard Inspection	WPS
	Liquid Termiticide Use Checklist	TER
	Ornamental and Turf Checklist	T&O
	Voluntary Statement	VOL
	Receipt for Samples	SAM
	Market Place/Restricted Dealers Records Inspection	MKT
	Market Place/Restricted Dealer Records Inspection Continuation Sheet	MPC
	Quarantine Order	QRN
	Quarantine Order Release	QOR
	Experimental Use Permit Checklist	EUP
	Authorization for Medical Record Disclosure	MED

Inspector's Signature: [Signature] Number: 331 Date: 09-14-11

Inspection Acknowledgment: I acknowledge receiving a copy of the above listed inspection documents initialed by the inspector.

Signature: [Signature] Date: 09-14-11

Print Name: Joel Kammelt



~~NOTICE OF INSPECTION~~ ~~USE/MISUSE INSPECTION~~

INSPECTION # 09141133101	DATE 09-14-11	TIME 10:40 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	REGION 9
NAME OF INDIVIDUAL Joel Rammelt		TITLE owner	
NAME OF FIRM (Note if corporation, partnership, dba, etc) Rammelt Farms			
ADDRESS This is the address of the: <input checked="" type="checkbox"/> INSPECTION SITE <input type="checkbox"/> FIRM <input checked="" type="checkbox"/> INDIVIDUAL 8795 W. Route 20			
CITY / VILLAGE Westfield		STATE Ny	ZIP 14787
TOWNSHIP Westfield	COUNTY Chautauqua	PHONE (716) 581-0157	

REASON FOR INSPECTION

- ☐ For the purpose of inspecting and obtaining samples of any pesticides or devices packaged, labeled and released for shipment, samples of any containers or labeling for such pesticides or devices in places where pesticides or devices are produced, or held for distribution or sale.
- ☒ For the purpose of inspecting and obtaining samples of mandated records.
- ☒ For the purpose of inspecting the use of pesticides and sampling pesticides in use to determine if they are being used in compliance with appropriate laws and rules and regulations.
- ☒ For the purpose of inspecting sites where pesticides are being used to collect data on the use of pesticides and to determine whether pesticides are being used in compliance with appropriate laws and rules and regulations.
- ☒ Other **Worker Protection Standard compliance check**

VIOLATION SUSPECTED

CONSENT USE/MISUSE

Voluntary Consent Necessary to Enter for Inspection and/or Sampling.

- ☐ The undersigned hereby voluntarily consents to an inspection of **8795 W. Route 20** of which I am the owner, Agent, or Person-in-Charge, for the purposes of gathering information and/or samples in connection with the administration and enforcement of Article 33 and Section 15-0313 of the Environmental Conservation law relating to pesticides. I understand that I have the right to refuse consent to this entry.

SIGNATURE

TITLE

DATE

This inspection is being performed under authority granted by Article 33 and Section 15-0313 of Article 15 of the Environmental Conservation law relating to pesticides and the Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. 136 et seq.).

INSPECTOR INFORMATION

NAME Michael Noorenberg	TITLE Pesticide Control Specialist II	ID NUMBER 331	PHONE NUMBER (716) 851-7220
SIGNATURE Michael Noorenberg	OFFICE LOCATION Buffalo	ACCOMPANIED BY Glenn Reinhardt, #268	



PESTICIDE APPLICATOR/BUSINESS/USE INSPECTIONS

INSPECTION NUMBER 09141133101		FIRM/FACILITY/PERSON INTERVIEWED Joel Rammelt		EQUIPMENT TYPE/SIZE 270 gal sprayer						
TYPE OF INSPECTION: <input type="checkbox"/> Business/Agency <input checked="" type="checkbox"/> Applicator <input type="checkbox"/> Non-agricultural use <input checked="" type="checkbox"/> Agricultural use		SITE OF INSPECTION FARM SHOP, Route 20, WESTFIELD								
BUSINESS REG. NO./EXPIRATION DATE N/A		INSURANCE COMPANY/EXPIRATION DATE N/A								
APPLICATOR NAME/CERTIFICATION TYPE Joel E. Rammelt Private		CERTIFICATION ID P9477509		CATEGORY/EXPIRATION 22- 6/31/14						
				SUPERVISED BY N/A						
DATE/TIME/WEATHER CONDITIONS DURING APPLICATION 7/15/11 8:00 AM 12 MPH WINDS		CROP GRAPE		SITE/SIZE 40 ACRES						
PESTICIDE NAME/EPA REG. NO. GRAMOXONE Inteon EPA REG. 100-1217		METHOD OF APPLICATION Knockdown		TARGET PESTS weeds under rows						
		CLASSIFICATION REST.		FORMULATION LIQUID						
				LABEL RATE 2.54.0pts/acre						
				OBSERVED RATE 11.2/acre						
Chateau SW 59639-99 Boom 7/15/11										
LABEL/EQUIPMENT REQUIREMENTS	REFERENCE SECTION	Yes	No	NA	APPLICATOR REQUIREMENTS	REFERENCE SECTION	Yes	No	NA	
Label Rate Followed	325.2(b)	✓			Apprentices Properly Supervised	325.7(d)			✓	
Target Pests on Label	325.2(b)	✓			Apprentices Trained/Documented	325.10(a)			✓	
PPE/Cautionary Labeling Followed	325.2(b)	✓			Apprentice Variance Approved	325.10(b)			✓	
Preharvest Interval/REI per Label	325.2(b)	✓			I. D. Card in Possession During Use	325.7(a)	✓			
Crop/Area Treated per Label	325.2(b)	✓			Label in Possession During Use	325.2(d)	✓			
Pesticide Containers Properly Labeled	33.1301(I)(b)			✓	Notification Requirements Met all owned	33-0905(5)			✓	
Service Containers Properly Labeled	33.1301(I)(b)			✓	REPORTS/RECORDS	33-1205(1)	Yes	No	NA	
Containers Properly Rinsed and Disposed	325.4(a)	✓			EPA Reg. No.		✓			
Backflow Prevention/Air Gap Present	325.2(c)	✓			Product Name		✓			
Proper Stickers on Equipment/Vehicles	325.26	✓			Quantity		✓			
Equipment Properly Calibrated		✓			Date Applied		✓			
Storage Locked/Containers Secure		✓			Address		✓			
Warning Signs Posted		✓			Place of Application		✓			
Location of Container Disposal: Drumster Pickup					Dosage Rate					✓
Location of Pesticide Storage: 8851 W. Route 207 Farm Shop.					Method of Application					✓
Water Source: Private Pond - Fill Station					Target Organism/Crop Treated					✓
Pesticide Mixing Area: At Pond Area - Fixed Fill Pipe					Records Kept 3 Years					✓
REMARKS:										
GRAPES AS CROP IS NOT LISTED ON THIS LABEL OF "GRAMOXONE Inteon" EPA REG 100-1217 LAST YEAR RECORDS LIST "GRAMOXONE Extra" EPA REG 10182-										
280										
INSPECTOR'S SIGNATURE <i>Michael M. Kelly</i>					DATE AND TIME INSPECTED 09-14-11					



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF SOLID AND HAZARDOUS MATERIALS • BUREAU OF PESTICIDES MANAGEMENT
 www.dec.state.ny.us

WORKER PROTECTION STANDARD INSPECTION

Inspection # <u>09141133101</u>		Date: <u>09-14-11</u>		Inspection: <input type="checkbox"/> Unannounced <input checked="" type="checkbox"/> Appointment	
Firm/Farm Name <u>Rammelt Farms</u>			Inspection Type: Tier I <input type="checkbox"/> or Tier II <input checked="" type="checkbox"/>		
Type of Establishment: (check all applicable): <input checked="" type="checkbox"/> Farm <input type="checkbox"/> Greenhouse <input type="checkbox"/> Nursery <input type="checkbox"/> Family establishment <input type="checkbox"/> Research <input type="checkbox"/> Forest					
Approx. total area of establishment: <u>285 acres</u>		Principal crops: <u>grapes</u>			
# of certified applicators with establishment: <u>2</u>		Name of person(s) directing/controlling pesticide use: <u>Joel Rammelt</u>			
Who applies pesticides? (check all applicable): <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Employee <input type="checkbox"/> Custom Applicator					
Note: For data in this block, estimates provided by the establishment are sufficient.					
# present at this inspection:	workers <u>2</u>	handlers <u>1</u>	# of permanent employees:	workers <u>2</u>	handlers <u>1</u>
1. # present during last pesticide application:	workers <u>2</u>	handlers <u>1</u>	# of seasonal employees:	workers <u>0</u>	handlers <u>0</u>
2. or for the last 30 days: (circle one)	<u>2</u>	<u>1</u>		<u>0</u>	<u>0</u>

INFORMATION AT A CENTRAL LOCATION

40 CFR 170.122/135

How to Comply Manual

	Page #
<u>NA</u> <u>Y</u> <u>N</u> Is the approved SAFETY POSTER displayed?	23
<u>NA</u> <u>Y</u> <u>N</u> Is EMERGENCY MEDICAL INFORMATION displayed? (name, address & telephone number)	24
<u>NA</u> <u>Y</u> <u>N</u> Is the site LOCATED where it can be readily seen and read by workers & handlers?	24
<u>NA</u> <u>Y</u> <u>N</u> Are workers & handlers INFORMED of the location and are they allowed ACCESS to the site?	24
<u>NA</u> <u>Y</u> <u>N</u> Does the information remain LEGIBLE while posted?	24
<u>NA</u> <u>Y</u> <u>N</u> Is the following APPLICATION INFORMATION displayed? -Location and Description of the treated area; - Product Name; -EPA REG #; - Active Ingredient(s) of the pesticide; -Time & Date of application; - REI (restricted entry interval)	23

Comments (explain NA): _____

PESTICIDE EXPOSURE INCIDENTS/EMERGENCY ASSISTANCE

40 CFR 170.160

How are incidents reported for employees who become sick/injured by pesticides? none

NA Y N Is prompt transportation to emergency medical facility available for employees who become sick/injured by pesticides? **36**

NA Y N Is information provided to medical personnel regarding the pesticide to which employees may have been exposed? **36**

Who is the person responsible for providing transportation and pesticide information? Joel Rammelt

Y N Have there been any pesticide exposure incidents on this farm? If yes, give details: _____

Comments (explain NA): _____

EMPLOYER/CUSTOM APPLICATOR INFORMATION EXCHANGE ☒ NA (no custom applications) **40 CFR 170.124 & 170.224**

NA Y N Does the ag establishment notify the custom applicator regarding the location of treated areas and REIs? **34**

NA Y N Does custom applicator notify the ag establishment of required application information before the application? **33**

How is the information exchanged? When/with whom? _____

PESTICIDE SAFETY TRAINING ASSURANCE

40 CFR 170.130

How to Comply Manual

Page #

WORKERS: (Applies to workers who are NOT certified applicators or trained handlers)

- ☒ NA ☒ Y ☒ N Does Ag Employer ASSURE that workers have been trained within the last five years? 25
- ☒ NA ☒ Y ☒ N Does Ag Employer ASSURE that workers have been trained before EARLY ENTRY activities during an REI? 25
- ☒ NA ☒ Y ☒ N Is the Ag Employer able to VERIFY that the required PESTICIDE SAFETY INFORMATION was provided to workers before entry into any area on an ag establishment where WPS pesticides have been applied within the last 30 days? 26
- ☒ NA ☒ Y ☒ N Does Ag Employer ASSURE that workers have received the required ADDITIONAL TRAINING before the sixth day of entry into any area on an ag establishment where WPS pesticides have been applied within the last 30 days?

HANDLERS: (Applies to handlers who are NOT certified applicators or certified crop advisers) 40 CFR 170.230

- ☒ NA ☒ Y ☒ N Does Ag Employer ASSURE that handlers have been trained within the last five years? 25/26
- ☒ NA ☒ Y ☒ N Does Ag Employer ASSURE that handlers have been trained before performing any handling task? 25/26

How is training verified for both workers and handlers? none provided/no verification

Comments (explain NA):

PESTICIDE SAFETY TRAINING PROGRAM

NA (if workers trained elsewhere)

40 CFR 170.130/230

- ☒ NA ☒ Y ☒ N **WORKERS & HANDLERS:** Is the information presented in a manner that the workers & handlers can understand (such as through a translator & using nontechnical terms & presenter answers questions)? 27
- ☒ NA ☒ Y ☒ N **WORKERS:** Does the PESTICIDE SAFETY INFORMATION meet the criteria listed in 170.130(c)? 26
- ☒ NA ☒ Y ☒ N **WORKERS:** Does the content of the ADDITIONAL TRAINING materials meet the criteria listed in 170.130(d)(4)? 103
- ☒ NA ☒ Y ☒ N Is trainer qualified to train WORKERS? (certified applicator or authorized by DEC) 26
- ☒ NA ☒ Y ☒ N **HANDLERS:** Does the content of the training materials meet the criteria listed in 170.230(c)(4)? 104
- ☒ NA ☒ Y ☒ N Is the trainer qualified to train HANDLERS? (certified applicator or authorized by DEC) 26

Who trains workers/handlers? no training When/how often?

Comments (explain NA):

DECONTAMINATION SITES

The employer must adhere to the following decontamination requirements for WORKERS and HANDLERS: 40 CFR 170.112/150/250

- ☒ NA ☒ Y ☒ N Do decontamination sites have soap, single-use towels, and enough water for washing & emergency eye flushing? 29-31
- ☒ NA ☒ Y ☒ N Is the decontamination water of a quality & temperature as required? 29
- ☒ NA ☒ Y ☒ N Is one pint of eye flush water immediately available to handlers using pesticides requiring protective eye wear and to early entry workers when working in areas treated with pesticides requiring protective eye wear for early entry? 31/68
- ☒ NA ☒ Y ☒ N Is the decontamination site within 1/4 mile of the work site and out of areas being treated or under REI? 30/31
- ☒ NA ☒ Y ☒ N Are decontamination sites provided for workers entering treated areas until 30 days following expiration of the REI? (Exception: Pesticides with a four-hour REI require decontamination site for only seven days.) 29
- ☒ NA ☒ Y ☒ N Are decontamination sites provided for early entry workers during and after early entry? 67/68

The employer must adhere to the following decontamination requirements for HANDLERS:

40 CFR 170.250

- ☒ NA ☒ Y ☒ N Is enough water provided to handlers for washing the entire body in case of an emergency? 30
- ☒ NA ☒ Y ☒ N Is one clean change of clothing provided to handlers for use in an emergency? 30
- ☒ NA ☒ Y ☒ N Are decontamination supplies located at the mix/load site? 30/31
- ☒ NA ☒ Y ☒ N Are decontamination supplies for PILOTS kept in the airplane or at the aircraft loading site? 30
- ☒ NA ☒ Y ☒ N Are handler decontamination supplies kept out of treated areas unless they are in enclosed containers? 31
- ☒ NA ☒ Y ☒ N Are decontamination supplies located where handlers remove PPE for washing thoroughly after handling activities? 31

Comments (explain NA): decon materials carried on vehicles and spray rig

ADDITIONAL DUTIES FOR WORKER EMPLOYERS**40 CFR 170.110****How to Comply Manual
Page #****RESTRICTIONS DURING APPLICATIONS**

- ☒ NA ☒ Y ☐ N Are workers prohibited in treated areas during application and until REIs have expired? 45
- ☒ NA ☐ Y ☐ N Are workers prohibited in treated areas plus the additional buffer area during application in NURSERIES? 51/52
- ☒ NA ☐ Y ☐ N Are workers prohibited in a GREENHOUSE during application and until ventilation criteria are met? 53-55

NOTICE OF APPLICATIONS TO WORKERS**40 CFR 170.120**

- ☒ NA ☐ Y ☐ N Are all GREENHOUSE applications posted with WPS warning signs? 42
- ☐ NA ☒ Y ☐ N Are workers given BOTH oral and posted notification when required by the pesticide label? 41-44
- ☐ NA ☒ Y ☐ N Are workers given notification of applications (EITHER orally or posted) for other applications? 41-44
- ☐ NA ☒ Y ☐ N Are workers told which method will be routinely used at this firm (oral or posted notification)? - circle one 41

Who notifies workers? Joel Ramnault

- ☐ NA ☒ Y ☐ N Have any early entry activities occurred?
- ☒ NA ☐ Y ☐ N Were workers informed of label restrictions re: early entry?

Posted Warning Signs ☐ NA for all

- ☐ NA ☒ Y ☐ N Does the employer use the approved WPS warning signs for posted notification? 42/43
- ☐ NA ☒ Y ☐ N Are the signs posted at all entrances of worker entry to the treated area? 42
- ☐ NA ☒ Y ☐ N Are the signs put up no sooner than 24 hours prior to application? 43
- ☐ NA ☒ Y ☐ N Are the signs removed within three days after the end of the REI? 43
- ☒ NA ☐ Y ☐ N Are the signs posted along the border of any labor camp adjacent to the treated area? 42

Oral Warnings ☐ NA for all

- ☐ NA ☒ Y ☐ N Are oral warnings given in a language (s) understood by workers? 44
- ☐ NA ☒ Y ☐ N Do oral warnings include: 1) location & description of treated area; 2) REI; 3) instructions not to enter during the REI? 44

Comments (explain NA):

ADDITIONAL DUTIES FOR HANDLER EMPLOYERS**APPLICATION RESTRICTIONS & MONITORING**☒ NA if no handlers employed **40 CFR 170.210**

- ☐ NA ☐ Y ☐ N *Do both the employer & the handler assure that no pesticide is applied (either directly or through drift) so as to contact anyone other than trained and PPE-equipped handlers: 73
- How is this verified?
- ☐ NA ☐ Y ☐ N Are handlers monitored visually or by voice every two hours when handling SKULL & CROSSBONES pesticides? 73
- ☐ NA ☐ Y ☐ N Does the handler have a continuous visual or voice contact with another trained and PPE-equipped handler when handling a FUMIGANT in a GREENHOUSE? 73/74

SPECIFIC INSTRUCTIONS FOR HANDLERS☒ NA if no handlers employed **40 CFR 170.232**

- ☐ NA ☐ Y ☐ N Does the employer assure that handlers read the label or are informed (in a manner they can understand) about the label requirements for safe use before performing any handling activity? 75
- ☐ NA ☐ Y ☐ N Does the handler have access to the product labeling during handling activities? 75

SAFE OPERATION OF EQUIPMENT☒ NA if no handlers employed **40 CFR 170.234**

- ☐ NA ☐ Y ☐ N Is the handler instructed in the safe operation of handling equipment before it is used? By whom? 75
- ☐ NA ☐ Y ☐ N Is handling equipment inspected and repaired before each day of use? 77
- ☐ NA ☐ Y ☐ N Does the employer assure that only trained and PPE-equipped handlers repair, clean or adjust any handling equipment that contains pesticides or pesticide residues? 77

Comments (explain NA):

PERSONAL PROTECTIVE EQUIPMENT REQUIREMENTS FOR HANDLERS/EARLY ENTRY WORKERS**40 CFR 170.112/240**

- ☒ NA ☐ Y ☐ N Does the employer provide the handler/early entry workers with the appropriate PPE in clean and operating condition? 79
- ☒ NA ☐ Y ☐ N Does the employer assure that instruction on use and cleaning of PPE is given and that it is worn and used correctly? 79
- Who gives instructions and assures use of PPE?
- ☒ NA ☐ Y ☐ N Does the employer assure that PPE is inspected, cleaned, stored properly & repaired or replaced before each day of use? 79
- ☒ NA ☐ Y ☐ N Does the employer assure that filters are replaced on respirators when required? 80
- ☒ NA ☐ Y ☐ N Do handlers/early entry workers have a clean place to store personal clothing, put on PPE and remove PPE after use? 79
- Where is it located?
- ☒ NA ☐ Y ☐ N Is contaminated PPE disposed of properly? 79
- ☒ NA ☐ Y ☐ N Does the employer take appropriate measures to prevent heat-related illness for handlers/early entry workers using PPE? 79
- ☒ NA ☐ Y ☐ N Have handlers refused to wear proper PPE?

From labels of agricultural pesticides documented in an accompanying AUO inspection, list the following (for up to 4 products):

	Product Name	REI	PPE
1	Gramoxone Inteon 24		Long sleeved shirt, long pants, shoes plus socks
2			protective eyewear, chem resistant gloves
3			dust mist respirator
4			

If the label for any of the above products does not include agricultural use requirements - state so above.

Comments (explain NA):

WORKER AND HANDLER INTERVIEWS

- ☒ Y ☐ N Were any workers or handlers interviewed? (circle which were) If no for either, explain why an interview was not conducted.

not on farm.

FAMILY ESTABLISHMENTS**40 CFR 170.104/110/112/124/224/240**

- ☒ NA ☐ Y ☐ N Are employees only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, sisters? 91
- If NO, skip this section.
- ☒ NA ☐ Y ☐ N Are non-handlers prohibited in treated areas during application and until REIs have expired? 92
- ☒ NA ☐ Y ☐ N Are non-handlers prohibited in treated areas plus the additional buffer area during application in NURSERIES? 92
- ☒ NA ☐ Y ☐ N Are non-handlers prohibited in a GREENHOUSE during application and until ventilation criteria are met? 92
- ☒ NA ☐ Y ☐ N Are early entry workers prohibited in treated areas during the first four hours after application? 93
- ☒ NA ☐ Y ☐ N Are early entry workers limited to one hour of work in a 24-hour period in treated areas during the REI? 93
- ☒ NA ☐ Y ☐ N Are early entry workers who perform irrigation and limited contact activities limited to eight hours of work in a 24-hour period? 93
- ☒ NA ☐ Y ☐ N Is the correct PPE for early entry PROVIDED for early entry activities at this firm? 93
- ☒ NA ☐ Y ☐ N Does the handler at this firm wear the label-specified PPE during handling tasks? 92
- ☒ NA ☐ Y ☐ N Is the label-specified PPE for handling activities at this firm PROVIDED in clean and operating condition? 92
- ☒ NA ☐ Y ☐ N Does this establishment notify commercial handlers regarding location of treated areas and REIs on the establishment? 92
- ☒ NA ☐ Y ☐ N Do commercial handlers notify this establishment of required application information before application takes place? 92

Comments (explain NA):

Additional Comments:

Print name of inspector	Michael Nierenberg	Print name of person interviewed	Joel Rammelt
Signature of inspector	<i>Michael Nierenberg</i>	Signature of person interviewed	<i>Joel Rammelt</i>

Inspection #	09141133101
Complaint #	N/A
Firm Name	Joel Rammelt Rammelt Farms 8851 W. Route 20 Westfield, NY 14787
Date of Inspection	09-14-11
Date of Report	09-16-11

SPECIALIST'S NARRATIVE

On 07-26-05, during a Worker Protection Standard (WPS) initiative held in Region 9, Joel Rammelt of Rammelt Farms, 8851 W. Route 20, Westfield, New York was inspected to determine compliance with the WPS requirements. During that inspection process, it was found that Mr. Rammelt was in violation of Title 6 NYCRR Part 325.2(c) – no anti-siphon device used when drawing water, 40 CFR 170.230 – no training of pesticide handlers, 40 CFR 170.250 – no handler decontamination sites, and 40 CFR 170.240 – no personal protection equipment for handlers. At that time, Mr. Rammelt was assessed a \$250.00 Order on Consent for the violations noted, which was paid by him.

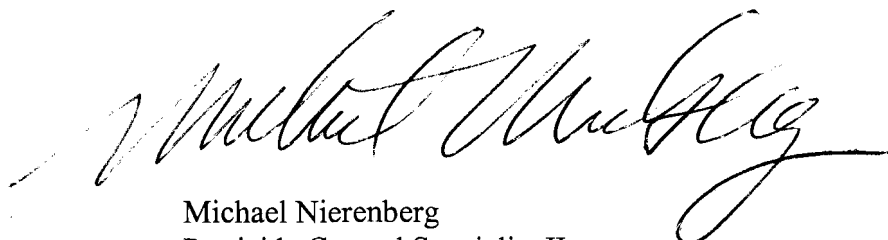
On 09-14-11, an inspection was scheduled at Rammelt Farms in order to check the status of compliance with the Worker Protection Standard. Accompanied by Glenn Reinhardt, PCS II #268, I visited Rammelt Farms at 8851 W. Route 20, Westfield, New York. Credentials were presented and a Notice of Inspection was issued to Mr. Joel Rammelt, owner of the farm.

Mr. Rammelt is a currently certified private pesticide applicator, having certification ID number P9477509 in category 22-Fruit which expires 06-21-14. Rammelt Farms is comprised of 285 acres, all of which are planted in grapes, and which are all sold to Welch's Grape Juice Company, Brocton, New York. The last pesticide application to have taken place at the farm was on July 15, 2011 to 40 acres of grapes for weeds growing under the rows. The product used was Gramoxone Inteon, EPA Reg No 100-1217, a currently registered, New York State Restricted Use pesticide. Also used was Chateau SW, EPA Reg No 59639-99 on 111.2 acres, a currently registered general use pesticide.

During a review of the WPS requirements, it was noted that Mr. Rammelt failed to post any of the required information at a central location, such as the safety poster and emergency medical information. This is a violation of 40 CFR 170.122 and 170.135. Additionally, Mr. Rammelt failed to post the pesticide application records, which were inaccessible to the two employees. A poster was provided to Mr. Rammelt, and he was told that he can leave the application records on top of his office desk, as long as his office is open and available to the employees during work hours. Additionally, no worker training was provided at any time. Training workbooks were given to Mr. Rammelt for training purposes.

Mr. Rammelt has installed a fixed pipe air gap fill pipe at his chemical storage shed in the vineyard. The shed is locked and posted with a pesticide warning sign. Mr. Rammelt does not use the EPA approved pesticide application signs. He notifies workers of impending applications orally, which is in compliance with the pesticide products in his arsenal and used in his daily spray records. He keeps workers out of the fields until the REI is past, and all workers speak English. There were no workers at the site during the inspection, so a Worker Interview could not be conducted by Mr. Reinhardt and I at this time.

This case will be reviewed by Glenn Reinhardt as Case Review Officer, for possible enforcement of violations of the Worker Protection Standard.

A handwritten signature in black ink, appearing to read "Michael Nierenberg", is written over a light gray horizontal line.

Michael Nierenberg
Pesticide Control Specialist II

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee X <i>[Signature]</i></p> <p>B. Received by (Printed Name) C. Date of Delivery JOEL Rammelt 10/14/11</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>CJ</i> If YES, enter delivery address below:</p>
<p>1. Article Addressed to:</p> <p>MR JOEL RAMMELT RAMMELT FARMS 8851 W ROUTE 20 WESTFIELD NY 14787</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7005 3110 0001 7021 6349</p>

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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**MR JOEL RAMMELT
RAMMELT FARMS
8851 W ROUTE 20
WESTFIELD NY 14787**

PS Form 3800, June 2002 See Reverse for Instructions

7005 3110 0001 7021 6349

New York State Department of Environmental Conservation
Division of Materials Management, Region 9
Bureau of Pest Management
270 Michigan Avenue, Buffalo, New York 14203-2915
Phone: (716) 851-7220 Fax: (716) 851-7226
Website: www.dec.ny.gov



October 3, 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Joel Rammelt
Rammelt Farms
8851 West Route 20
Westfield, New York 14787

Dear Mr. Rammelt:

**NOTICE OF VIOLATION OF THE
ENVIRONMENTAL CONSERVATION LAW**

On September 14, 2011, Pesticide Control Specialists from this Department completed an inspection of your farm business to determine your level of compliance with New York State pesticide laws and regulations. The Department is responsible for the administration and enforcement of laws and regulations pertaining to pesticides in the State of New York, including Articles 15, 33 and 71 of the ECL, and Parts 320-329 of Title 6 of the Official Compilation of Codes, Rules and Regulations of New York State ("6 NYCRR") and has the authority to inspect under the Federal Insecticide, Fungicide and Rodenticide Act {FIFRA Section 12(a)(2)(g)} and the Code of Federal Regulations ("40CFR 170") related to the Federal Worker Protection Standard ("WPS").

You are a Certified Private Pesticide Applicator, identification number P9-477509 in category 22 – Fruit, expiration June 21, 2014. Such business activities are subject to all applicable New York State laws, rules and regulations related to the private application of pesticides. This activity is also subject to the requirements of the Federal Worker Protection Standard, since the farm business is growing and/or maintaining agricultural commodities and employs several workers.

A previous inspection completed on July 26, 2005 by this Department documented several violations of both Article 33 of the New York State Environmental Conservation Law and 40CFR 170 related to the Federal Worker Protection Standard. A penalty of \$250.00 was assessed for these violations.

The follow up inspection of September 14, 2011 was completed to determine the farm's level of compliance with the Federal Worker Protection Standard. The purpose of this letter is to advise you of the Department's summary of the September 14, 2011 inspection, to point out any violations noted, and to request any corrective actions necessary.

During the most recent inspection, several violations and/or potential violations of the Code of Federal Regulations (CFR) and New York State regulations were identified as follows:

1. 40 CFR 170.135 requires employers of agricultural workers and handlers to display a pesticide safety poster in a location designated as the central posting area. This poster must also contain information on emergency medical contacts.

You did not display the required safety poster at a central location accessible to workers and, therefore, the emergency medical information was not written on the poster. An approved poster was given to you during the inspection.

2. 40 CFR 170.122 requires that specific information on pesticide applications, in the form of written application records, be available to workers and handlers at the central location. Specific information on **all** pesticide applications, including location of application, product name, EPA registration number, active ingredients, time and date of application, and restricted entry intervals (REI) for each pesticide applied within the past thirty (30) days, must be provided for both general and restricted use products. Further, NYS Article 33-1205.5 of the Environmental Conservation Law (ECL) and 6 NYCRR Part 325.25(d) requires that private applicator records contain the restricted pesticides purchased, target crop, method of application and date of application.

Information required by 40 CFR 170.122 was not compiled and available at the Central Location. It was determined that these records, once compiled, could be placed on your desk, available to employees, as long as the poster is placed nearby, i.e. on the office door, and the office is not locked during work hours. You were in possession of the proper record keeping forms.

3. 40 CFR 170.130 requires that all workers must receive pesticide safety training using United States Environmental Protection Agency approved training materials. This training should also be documented.

You were unable to show documentation that worker training took place. This training must be completed at least once every five years. You were given EPA training manuals for both workers and handlers for this use.

As an enforcement agency, the Department is compelled by the laws of New York to initiate enforcement actions, and to assess penalties, when it is determined that violations of the ECL Relating to Pesticides have occurred. The amount of the penalties is prescribed in the law under Article 71 Section 71-2907, which states that any individual who violates any provisions of Article 33 of the ECL shall be liable for a civil penalty not to exceed \$5,000.00 for a first violation, and not to exceed \$10,000.00 for a subsequent offense. A review of this case by Regional Legal staff determined that enforceable violations were substantiated by a preponderance of evidence, and penalties should be levied.

Mr. Joel Rammelt
October 3, 2011
Page 3

In order to address these violations without the necessity of a formal hearing, the Department is offering to settle these violations via the enclosed Order on Consent which lists the violations and a total penalty amount of \$ 500.00. Signature of the "Consent by Individual" and "Individual Acknowledgment" sections, notarization and payment of the penalty amount, will indicate your concurrence with the conditions as set forth, and conclude this matter. Please return the executed Order to me together with payment of the penalty amount, payable to "Commissioner of Environmental Conservation", to the New York State Department of Environmental Conservation, Bureau of Pesticides Management, 270 Michigan Avenue, Buffalo, NY 14203 by October 28, 2011. After the Order is executed by our Regional Director, as representative of the Commissioner, I will return a fully executed copy to you for your records.

Lastly, the Order on Consent contains requirements wherein you must correct said violations and certify, via the attached "Compliance Verification Affidavit", that actions necessary to come into compliance with the Department's regulatory program have been completed. This completed Affidavit can be returned with the Order on Consent.

Failure to respond to this notice will result in the Department initiating formal enforcement proceedings and the withdrawal of this settlement offer.

Thank you for your cooperation during the inspection process and in promptly addressing these issues. Should you have any questions, or wish to discuss this matter further, please contact me at (716) 851-7220.

Sincerely,

Glenn Reinhardt
Pesticide Control Specialist II

GR:vm

Enclosures:

Order on Consent
Compliance Verification Affidavit

cc: Mr. Mark Hans, Regional Solid and Hazardous Substances Engineer
Maureen Brady, Esq., Regional Attorney

NOV 03 2011

STATE OF NEW YORK : DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of Violations of Articles 15 and 33 of
the Environmental Conservation Law (ECL) and
Title 6 of the Official Compilation of Codes, Rules and
Regulations of the State of New York ("6NYCRR")
Parts 320 - 329

ORDER ON CONSENT

CASE NO. 29-2011107-150

- BY -

Mr. Joel Rammelt
Rammelt Farms
8851 West Route 20
Westfield, New York 14787

1. The New York State Department of Environmental Conservation ("Department") is responsible for administration and enforcement of laws and regulations pertaining to pesticides in the State of New York, including ECL Articles 15 and 33 and Title 6 NYCRR Parts 320 - 329.
2. In 1992, the United States Environmental Protection Agency promulgated the Worker Protection Standard ("WPS") at 40CFR Part 170, which regulates certain activities at farms, forests, nurseries, and greenhouses where pesticides are used in the production of agricultural plants.
3. Pursuant to Article 33 of the ECL and the rules and regulations promulgated thereunder, Title 6 NYCRR Part 325.2(b) requires that pesticides are to be used only in accordance with label and labeling directions or as modified or expanded and approved by the Department.
4. Compliance with the WPS is part of the "Directions For Use" included in the labeling of certain registered pesticides used on said premises.
5. The violations recited herein are subject to the penalty provisions of ECL Section 71-2907.
6. Respondent, Joel Rammelt, is a certified pesticide applicator, identification number P9-477509, who operates a farm located in the Town of Westfield, County of Chautauqua, State of New York.
7. Respondent, Joel Rammelt, applies pesticides as part of his farming activities, and is subject to the requirements of Articles 15 and 33 of the ECL and Title 6 NYCRR Parts 320 - 329.

STATE OF NEW YORK : DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of Articles 15 and 33 of
the Environmental Conservation Law (ECL) and
Title 6 of the Official Compilation of Codes, Rules and
Regulations of the State of New York ("6NYCRR")
Parts 320 - 329

ORDER ON CONSENT

CASE NO. R9-20111107-150

- BY -

Mr. Joel Rammelt
Rammelt Farms
8851 West Route 20
Westfield, New York 14787

1. The New York State Department of Environmental Conservation ("Department") is responsible for administration and enforcement of laws and regulations pertaining to pesticides in the State of New York, including ECL Articles 15 and 33 and Title 6 NYCRR Parts 320 - 329.
2. In 1992, the United States Environmental Protection Agency promulgated the Worker Protection Standard ("WPS") at 40CFR Part 170, which regulates certain activities at farms, forests, nurseries, and greenhouses where pesticides are used in the production of agricultural plants.
3. Pursuant to Article 33 of the ECL and the rules and regulations promulgated thereunder, Title 6 NYCRR Part 325.2(b) requires that pesticides are to be used only in accordance with label and labeling directions or as modified or expanded and approved by the Department.
4. Compliance with the WPS is part of the "Directions For Use" included in the labeling of certain registered pesticides used on said premises.
5. The violations recited herein are subject to the penalty provisions of ECL Section 71-2907.
6. Respondent, Joel Rammelt, is a certified pesticide applicator, identification number P9-477509, who operates a farm located in the Town of Westfield, County of Chautauqua, State of New York.
7. Respondent, Joel Rammelt, applies pesticides as part of his farming activities, and is subject to the requirements of Articles 15 and 33 of the ECL and Title 6 NYCRR Parts 320 - 329.

8. Respondent, Joel Rammelt, is a Worker Employer, as that term is used in the WPS, and is subject to its requirements.
9. A Department inspection conducted on or about September 14, 2011 determined that Respondent violated the WPS and, as such, failed to act in accordance with label directions, in violation of 6NYCRR Section 325.2(b).
10. 40 CFR 170.135 requires employers of agricultural workers and handlers to display a pesticide safety poster in a location designated as the central posting area. This poster must also contain information on emergency medical contacts.
11. The Department has determined, as a result of an inspection completed on September 14, 2011 that the Respondent violated the statutes and/or rules indicated above in that the Respondent failed to display the required safety poster which contained emergency medical information, in a central location.
12. 40 CFR 170.122 requires that specific information on pesticide applications, in the form of written application records, be provided at the central location and be available to workers and handlers. Specific information on all pesticide applications, including location of application, product name, EPA registration number, active ingredients, time and date of application, and restricted entry intervals (REI) for each pesticide applied within the past thirty (30) days, must be provided for both general and restricted use products while workers and handlers are present on the establishment and for 30 days past the expiration date of the REI.
13. The Department has determined, as a result of an inspection completed on September 14, 2011 in that the Respondent violated the statutes and/or rules indicated above in that the Respondent failed to display pesticide application information at the Central Location while workers are on the establishment.
14. 40 CFR 170.130 requires that all employers assure that workers receive pesticide safety training using United States Environmental Protection Agency approved training materials. This training must be completed at least once every five years.
15. The Department has determined, as a result of an inspection completed on September 14, 2011, that Respondent violated the statutes and/or rules indicated above in that the Respondent failed to assure that worker training took place.
16. Section 71-2907(1) of the ECL provides that any person who violates a provision of ECL Article 33 or any rule, regulation, or order issued thereunder, or commits any offense described in ECL Section 33-1301 shall be liable for a civil penalty not to exceed \$5,000.00 (five thousand dollars) for a first violation and not to exceed \$10,000.00 (ten thousand dollars) for a subsequent offense, to be assessed by the Commissioner after a hearing or opportunity to be heard.
17. Respondent agrees to cease and desist from all future applications of any and all pesticides until such time as Respondent is in compliance with the above provisions of the law as well as the requirements of Articles 15 and 33 of the Environmental Conservation Law.

18. To promote the best interest of the parties, the Respondent affirmatively waives the right to a hearing on this matter as provided by law and consents to the issuing and entering of this Order and agrees to be bound by the provisions, terms and conditions contained herein.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

- I. Resolution of Enforcement Action. Upon completion of all obligations created in this Order, this Order settles only all claims for civil and administrative penalties concerning the violations described in this Order against Respondent and related permit requirements.
- II. Civil Penalty. With respect to the violations identified in this Order, Respondent is hereby assessed a civil penalty in the amount of \$500.00 (five hundred dollars) for the above violations of the ECL and WPS. The payable penalty amount is due by October 28, 2011. All payments shall be made by check or money order, payable to the "Commissioner of Environmental Conservation" at the New York State Department of Environmental Conservation, Bureau of Pesticide Management, 270 Michigan Avenue, Buffalo, New York 14203. Payment shall be made by the Respondent, delivered personally or by US mail to the address set forth in this paragraph as stipulated with the payment due immediately upon execution of this Order but no later than October 28, 2011.
- III. Compliance. That Respondent shall be immediately bound as here and after provided by this Order. Respondent must correct said violations and certify, via the attached "Compliance Verification Affidavit", that actions necessary to come into compliance with the Department's regulatory program have been completed. This completed Affidavit can be returned with the Order on Consent.
- IV. Access. For the purpose of monitoring or determining compliance with this Order, employees and agents of the Department shall be provided access to any facility, site or records owned, operated, controlled or maintained by Respondent, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibility.
- V. Reservation of Rights. Except as provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the civil, administrative, or criminal rights of the Department or of the Commissioner or his designee (including, but not limited to, nor exemplified by, the rights to recover natural resources damages and to exercise any summary abatement powers) or authorities with respect to any party, including Respondent.
- VI. Failure, Default, and Violation of Order . Respondent's failure to comply fully and in timely fashion with any provision, term, or condition of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL and shall constitute sufficient grounds for revocation of any permit, license, certification, or approval issued to Respondent by the Department.

- VII. Indemnification . Respondent shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent and its successors (including successors in title) and assigns.
- VIII. Force Majeure . If Respondent can not comply with a deadline or requirement of this Order, because of an act of God, war, strike, riot, catastrophe or other condition which is not caused by the negligence or misconduct of Respondent and which could not have been avoided by Respondent through the exercise of due care, Respondent shall make its best effort to comply nonetheless and shall, within seventy-two hours (unless notice is required sooner by State or Federal law), notify the Department by telephone and in writing, pursuant to the communications provision of this Order, after it obtains knowledge of any such condition or event and request an appropriate extension or modification of this Order.
- IX. Submissions. The Respondent shall send all documentation required by this Order to the Department at the following address, unless otherwise noted:
- New York State Department of Environmental Conservation
Region 9 Office
Bureau of Pesticides Management
270 Michigan Avenue
Buffalo, New York 14203-2915
Attn: Mr. Glenn Reinhardt
- X. Binding Effect . The provisions of this Order shall inure to the benefit of and be binding upon the Department and Respondent and its successors (including successors in title) and assigns.
- XI. Modification. If, for any reason, Respondent desires that any term of this Order be changed, Respondent shall make timely written application, therefore, to the Regional Director of the Department's Region 9 Office setting forth reasonable grounds for the relief sought. The Department of Environmental Conservation agrees not to unreasonably deny a request for extension of time and modification of this Order. No change in this Order shall be made or become effective except as set forth by a written order of the Commissioner or the Commissioner's designee.
- XII. Entire Order. The provisions of this Order constitute the complete and entire Order issued to the Respondent concerning resolution of the violations identified in this Order. No term, condition, understanding or agreement purporting to modify or vary any term hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule comment or statement made or submitted by Respondent shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

XIII. Effective Date . The effective date of this Order is the date that the Commissioner or his designee signs it. The Department will provide Respondent (or the Respondent's counsel) with a fully executed copy of this Order as soon as practicable after the Commissioner or his designee signs it.

DATED: Buffalo, New York
_____, 2011

Joe Martens, Commissioner,
New York State Department of
Environmental Conservation

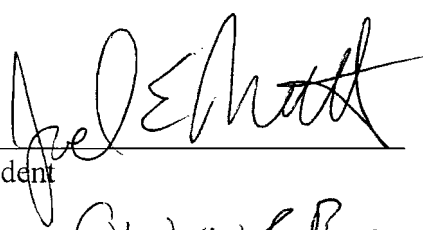
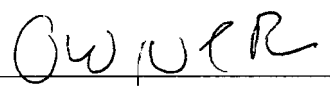
By: _____
Abby M. Snyder
Regional Director, Region 9

NOV 03 2011

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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CONSENT BY INDIVIDUAL

Respondent, Joel Rammelt, hereby consents to the issuing and entering of the foregoing Order without further notice and waives the right to a hearing herein and agrees to be bound by the provisions, terms and conditions herein.


Respondent

Title
Date: 11-1-11

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ACKNOWLEDGMENT FOR CORPORATION RESPONDENT

STATE OF NEW YORK
COUNTY OF Chautauque

On the 1st day of November in the year 2011, before me personally came Joel Rammelt, to me known, who being by me duly sworn did dispose and say he is the entity described in and which executed the above instrument, and that he signed his name thereto.


Notary Public

ADAM J. DIMITRI
Notary Public, State of New York
No. 01D16174805
Qualified in Chautauque County
My Commission Expires Sept. 24, 2015



LAKE SHORE SAVINGS BANK

WESTFIELD, N.Y. 14787

RAMMELT BROS8851 W ROUTE 20
WESTFIELD, NEW YORK 14787

50-7165-2223

11/2/2011

PAY
TO THE
ORDER OF

Commissioner Environmental Conservation

\$ **500.00

Five Hundred and 00/100***** DOLLARS

Commissioner Environmental Conservation
NYS DEC
Bureau of Pesticide Management
270 Michigan Avenue
Buffalo, NY 14203

RAMMELT BROS

AUTHORIZED SIGNATURE

MEMO

⑈001730⑈ ⑆222371656⑆ 0050003491⑈

Commissioner Environmental Conservation

11/2/2011

Date	Type	Reference	Original Amt.	Balance Due	Discount	Payment
11/2/2011	Bill	Penalty	500.00	500.00		500.00
				Check Amount		500.00

Lake Shore Savings &

500.00

NOV 03 2011

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COMPLIANCE VERIFICATION AFFIDAVIT

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of:

Mr. Joel Rammelt
Rammelt Farms
8851 West Route 20
Westfield, New York 14787

JOEL E RAMMELT, being duly sworn, did depose and say that I am
the OWNER of Rammelt Farms, and Rammelt Farms has corrected
the violations and complied with the requirements of the Notice of Violation issued by the New York
State Department of Environmental Conservation dated October 3, 2011. I have checked all items

I have completed to achieve compliance:

- ☒ I have corrected my daily application records for 2011 and made them available to workers as required.
- ☒ I have provided training to workers as required by the Federal Worker Protection Standard.
- ☒ I have posted the safety poster at the designated Central Posting area and completed the Emergency Contact Information on the poster.

List any additional statements being made to the Department here: _____

Joel E Rammelt
Signature of Officer or Representative
OWNER
Title of Officer or Representative

Subscribed and sworn to before me
On this 1st day of Nov, 2011

Adam J. Dimitri
Notary Public

ADAM J. DIMITRI
Notary Public, State of New York
Qualified in Chautauque County
My Commission Expires Sept. 24, 2015

ADAM J. DIMITRI
Notary Public, State of New York
No. 01DI6174805
Qualified in Chautauque County
My Commission Expires Sept. 24, 2015